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Levy Lid Lifts

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The passage of Initiative 747 in 2001 limited taxing jurisdictions with a population of less than 10,000 to an increase of one percent in their levy, plus taxes on new construction and increases in state-assessed utility valuation. Levy increases for municipalities with a population of 10,000 or more are limited to the lesser of one percent or the increase in the July implicit price deflator for personal consumption expenditures as published in the September issue of the *Survey of Current Business*.

One exception to the one percent rule is the levy lid lift. Taxing jurisdictions with a tax rate that is less than their statutory maximum rate may ask the voters to *Alift@* the levy lid by increasing the tax rate to some amount equal to or less than their statutory maximum rate. (If you do not know your statutory maximum rate, ask your county assessor.) A simple majority vote is required.

How much revenue can you raise from a levy lid lift?

Start by calculating the difference between your current tax rate and the maximum guaranteed statutory rate. If you do not know your current rate, ask your assessor.

Maximum Statutory Tax Rate: **Cities** are senior taxing districts and their maximum tax rates differ, depending on whether they have a firemen's pension fund or whether they are annexed to a fire district and/or a library district.

The maximum regular property tax levy for most cities is \$3.375 per thousand dollars assessed valuation (AV). *RCW 84.52.043(1)(d)*. Some cities have a firemen's pension fund. (If you do not know whether you have one, you probably do not.) Those cities can levy an additional \$0.225 per thousand dollars assessed valuation, resulting in a maximum levy of \$3.60 per thousand dollars AV. *RCW 41.16.060*. For cities that belong to a fire district and/or a library district, the rules are a little more complicated. Nominally they have a maximum rate of \$3.60 per thousand dollars AV. But, they can never collect that much because the levy of the special districts must be subtracted from that amount. *RCW 27.12.390 and RCW 52.04.081*. The library district levy has a maximum rate of \$0.50 per thousand dollars AV (*RCW 27.12.050*) and the fire district levy can be as high as \$1.50. *RCW 52.16.130, RCW 52.16.140, and RCW 52.16.160*.

¹A slightly different version of this article appeared in *Budget Suggestions for 2009*, Information Bulletin No. 531, August 2008 and *Municipal Research News*, Fall 2008.

Therefore, if a city belongs to both a fire district and a library district, and if these districts are currently levying their maximum amount, then the local levy can be no higher than \$1.60 ($\$3.60 - .50 - 1.50 = \1.60). The Department of Revenue has also determined that if a city has a Firemen's Pension Fund **and** also in a library and/or a fire district, its maximum levy rate is \$3.825 minus the levy rates of the districts.²

For **counties**, the maximum regular property tax levy rate that may be imposed on real and personal property is \$1.80 per thousand dollars AV for its current expense or general fund, and \$2.25 per thousand dollars AV for its road fund. However, a county can raise its general fund levy rate up to \$2.475 per thousand dollars AV, provided the total of the levy rates for the general fund and road fund do not exceed \$4.05 per thousand dollars AV **and** the increase in the general fund levy does **not** result in a reduction in the levy of any other taxing district.

Some **special districts** have the authority to levy regular property taxes and do lid lifts. Unlike city and county levies, special district levies are subject to prorationing.

If the total levy rate in a district from the city, county, and special district levies is greater than \$5.90, then there is a pecking order set up in RCW 84.52.010(2). One or more of the special district levy rates must be decreased until the total is \$5.90. A district could pass a levy lid lift of a certain amount only to find, in some future year, another taxing district has increased its rate so that the total is greater than \$5.90.³ Depending on where the districts lie in the prorationing pecking order, the amount of the lid lift might have to be decreased.

Example: A city has a maximum tax rate of \$3.375 per thousand dollars. Its current rate is \$2.90 and its assessed valuation is \$100,000,000.

$$\$3.375 - \$2.90 = \$0.475.$$

Multiply the difference between your maximum rate and current rate by your AV divided by 1000 because the tax rate is levied on each thousand dollars of assessed valuation, not each dollar.

$$\$0.475 \times 100,000,000 / 1000 = \$47,500.$$

\$47,500 is the maximum amount of **extra** revenue the city could get in its first year

²First Levy Audit Completed, by Fletcher Barkdull, *Property Tax Review*, (Department of Revenue: Olympia) October 2002.

³Some property tax levies not subject to this limit include state levies, levies for public utility districts, excess property tax levies, special levies for local school districts, levies for acquiring conservation futures, emergency medical service levies, low income housing levies, ferry district levies, and, under certain restrictive conditions, the 25 cent metropolitan park district levy. Some of these are, however, subject to the one percent constitutional limit. (RCW 84.52.043)

after doing a levy lid lift. Its total levy, if the vote on the lid lift is successful, would be \$337,500 compared to \$290,000 without the lift. If the council is not be interested in that big an increase in the rate, multiply whatever rate increase they have in mind times your assessed valuation divided by 1000.

If you think you want to explore the idea of a levy lid lift further, what are your options?

There are two different approaches to, or options for, a levy lid lift, with each having different provisions and advantages.

Option 1: "Original flavor" lid lift (or "single-year" lift or "one-year" lift or "basic" lift)

In 2003, when the legislation (2ESSB 5659, Ch. 24, 1st spec. sess., Laws of 2003) establishing the multi-year lid lift was passed, MRSC nicknamed the Aold@ version the Aoriginal flavor@ lid lift. Others used the term Abasic@ lift. Recently, we have seen the terms Asingle-year@ and Aone-year@ lift used. We have discovered, however, that some people think this means that the lift ends or goes away after one year. As we discuss below, the lift generally lasts for a number of years, perhaps permanently. A better way to describe it may be to call it the Aone-bump@ lid lift compared to the multi-year lift, which Abumps up@ for up to six years. In our discussion, we will continue to refer to it as the Aoriginal flavor@ lift.

1. Purpose. It may be done for any purpose, and the purpose may be included in the ballot title, but need not be. You could say it would be for hiring more firefighters or for additional money for general government purposes, or you could say nothing at all. In the latter case, by default, it would be for general government purposes. Stating a particular purpose may improve your chances of getting the voters to approve it.

2. Length of time of lid lift. It can be for any amount of time, unless the proceeds will be used for debt service on bonds, in which case the maximum time period is nine years. Setting a specific time period may make the ballot measure more attractive to the voters. But, making it permanent means you can use the funds for ongoing operating expenditures without having to be concerned that you will have to go back to the voters for another lid lift. To make the lift permanent requires language in the ballot title expressly stating that future levies will increase as allowed by chapter 84.55 RCW.

If the lift is not made permanent, the base for future levies will, at the end of the time period specified in the ballot title, revert to what the dollar amount of the levy would have been if no lift had ever been done. Note that the assessor will assume that the governing body would have increased its levy by the maximum amount allowed each year if there had been no lid lift.

3. Subsequent levies. After the initial lift in the first year, the jurisdiction's levy in future years is subject to the 101 percent lid in chapter 84.55.RCW. This is the maximum amount it can increase without returning to the voters for another lid lift.

4. Election date. The election may take place on any election date listed in RCW 29A.04.321.

Option 2: Multiple/multi-year lid lift

1. Purpose. It may be done for any purpose, but the purpose(s) must be stated in the title of the ballot measure, and the new funds raised may not supplant existing funds used for that purpose.

Existing funds mean the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

For all counties, other than King County, 2009 legislation removed the supplanting restrictions for all levies passed after July 26, 2009. Levies passed in King County are also no longer subject to the prohibition against supplanting after July 26, 2009. However, the restrictions will be reimposed on January 1, 2012.

2. Length of time of lid lift. The lid may be bumped up each year for up to six years. At the end of the specified period, the levy in the final period may be designated as the base amount for the calculation of all future levy increases (made permanent) if expressly stated in the ballot title. The levy in future years will then be subject to the 101 percent lid in chapter 84.55 RCW.

If the lift is not made permanent, at the end of the time period specified in the ballot title, the base for future levies will revert to what the dollar amount of the levy would have been if no lift had ever been done. Note that the assessor will assume that the governing body would have increased its levy by the maximum amount allowed each year if there had been no lid lift.

3. Subsequent levies. The lift for the first year must state the new tax rate for that year. For the ensuing years, the lift may be a dollar amount, a percentage increase amount tied to an index such as the CPI, or a percentage amount set by some other method. The amounts do not need to be the same for each year. However the ballot title may only have 75 words, so one does not have much space to get too fancy or creative.

(Note that one cannot specify that the lift be to a specific tax rate for each year. A tax rate **must** be specified for the first year, like "increase the rate to \$3.10." For

ensuing years, however, the ballot measure **cannot** say something like ~~and~~ and raise the rate to \$3.10 in each of the next five years. @)

If the amount of the increase for a particular year would require a tax rate that is above the maximum tax rate, the assessor will levy only the maximum amount allowed by law.

4. Election date. The election date must be the August primary or the November general election.

So, which is the better option?

As usual, of course, it depends. The requirement that a purpose must be stated in the ballot title for a multi-year lid lift makes it appear to be less flexible than the original flavor @ or single-year version. This may be true more in theory than practice, however, because we know of only one city that has successfully passed a ballot measure where they did not specify the use of the funds.

The requirement that there be no supplanting in expenditures in the multi-year lift is more restrictive. It certainly is attractive to have the opportunity to do a levy lid lift for a popular program, such as public safety, and then use part of the money that would have been spent on that program for, say, a new computer system. One presumes, however, that citizens believe there will be no supplanting even when the statutes do not prohibit it, and that they will require some accounting from government officials.

If you use the CPI as the inflator in a multi-year lid lift, which index should you choose?

There are all sorts of consumer price indices. **It is absolutely crucial that you correctly identify the one you want to use in your ballot measure.** The considerations are the same as choosing a consumer price index for a labor contract. The Bureau of Labor Statistics has a Web site that will help you make that decision. <http://www.bls.gov/cpi/cpi1998d.htm> Figure out when you will want the information, for budgeting purposes, on how much your property tax levy can be increased. Then make certain that the CPI index you have chosen will be available by that date.

The U.S. CPI figures are available monthly with a lag of about two and a half weeks. For example, the April statistics are published around May 19 or so. The Seattle-Tacoma-Bremerton CPIs are published bimonthly for even-numbered months. The February numbers are published in mid-March, to give one example. The Portland-Salem indices are only published twice a year. The second half of 2008, for example, will be published in mid-February 2009 and the first half of 2009 in mid-August 2009.

What election date should you choose?

If you are doing a multi-year lid lift, you are limited to either the August primary or the November general election. For the “original flavor” (single-year) increase you may also choose one of the special election dates listed in RCW 29A.04.321.

There are a number of considerations here. Your election date will determine (assuming the ballot measure is passed) when you will get your first tax receipts. Taxes levied in November are first due on April 30 of the following year. Therefore, to receive taxes next year from a levy you are discussing during the current year, your election can be no later than November. We know some councils first begin thinking of a levy lid lift in September or October, during budget discussions for coming year. By that time it was too late to get any measure on the November ballot. Your county auditor must receive your ordinance or resolution 52 days before a special election and 84 days before the primary or general election.⁴ **It pays to plan ahead.**

Councils and commissions should ask around to find out what other elections will be coming up during the coming year. You may not want to go head-to-head with a school levy election or a voted bond issue.

⁴RCW 29A.04.321